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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/797,244	03/10/2004	Scott F. Sneddon	2478.1002-016	2987
21005	7590	10/05/2004		
HAMILTON, BROOK, SMITH & REYNOLDS, P.C. 530 VIRGINIA ROAD P.O. BOX 9133 CONCORD, MA 01742-9133				EXAMINER BALASUBRAMANIAN, VENKATARAMAN
				ART UNIT 1624 PAPER NUMBER

DATE MAILED: 10/05/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary	Application No.	Applicant(s)
	10/797,244	SNEDDON ET AL.
	Examiner	Art Unit
	Venkataraman Balasubramanian	1624

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 1 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) Responsive to communication(s) filed on ____.
- 2a) This action is **FINAL**. 2b) This action is non-final.
- 3) Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) Claim(s) 1-59 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) Claim(s) ____ is/are allowed.
- 6) Claim(s) ____ is/are rejected.
- 7) Claim(s) ____ is/are objected to.
- 8) Claim(s) 1-59 are subject to restriction and/or election requirement.

Application Papers

- 9) The specification is objected to by the Examiner.
- 10) The drawing(s) filed on ____ is/are: a) accepted or b) objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
 - a) All
 - b) Some *
 - c) None of:
 1. Certified copies of the priority documents have been received.
 2. Certified copies of the priority documents have been received in Application No. ____.
 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413) |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | Paper No(s)/Mail Date: ____ . |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date: ____ . | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152) |
| | 6) <input type="checkbox"/> Other: ____ . |

DETAILED ACTION

Claims 1-59

Election/Restrictions

Restriction to one of the following inventions is required under 35 U.S.C. 121:

- I. Claims 1-4,7-30, 33-52 and 54-55, drawn to compound of formula I or II wherein W and Z both are nitrogens, namely triazine, and method of use, classified in class 544, subclasses 207, 212, class 514, subclass 241.
- II. Claims 1-6, 15-32 and 53-59, drawn to compound of formula I and others wherein one of W and Z is nitrogen, the other carbon, namely pyrimidine, classified in class 544, subclasses 324 and 328, class 514, subclasses 256 and 272.
- III. Claims 1-4, 15-30 and 54-55, drawn to compound of formula I wherein W, Z are carbons and V is nitrogen, classified in class 544, subclass 405, class 514, subclass 255.05.
- IV. Claims 1-4, 15-30 and 54-55, drawn to compound of formula I wherein W, Z and V are carbons namely pyridine and method of use, classified in class 546, subclass 282.1, class 514 subclass 340.

The inventions are distinct, each from the other because of the following reasons:

Group I-IV are independent and distinct from each other because they are directed to structurally dissimilar compounds that lack common core such as triazine vs pyrimidine vs pyrazine vs pyridine v core. Consequently, the groups have different classifications and require separate prior art searches. They can be made and used

independently. Art, which may render obvious or anticipate one of the groups, would not necessarily do the same for the other group as evidenced by the references cited in the Information Disclosure Statement provided by the applicants. Each can support a patent, as the compounds of each group are capable of being utilized alone not in combination with other members listed in the Markush group. Placing all such compounds into the same claims is not proper to scientific classification as they are separately classified and require separate searches. Furthermore, with limited time available searching all cores would be serious search burden.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

In view of distinct nature of each of the inventions, the restriction is set forth in writing.

Applicant is advised that the reply to this requirement to be complete must include an election of the invention to be examined even though the requirement be traversed (37 CFR 1.143).

Applicant is reminded that upon the cancellation of claims to a non-elected invention, the inventorship must be amended in compliance with 37 CFR 1.48(b) if one or more of the currently named inventors is no longer an inventor of at least one claim remaining in the application. Any amendment of inventorship must be accompanied by a request under 37 CFR 1.48(b) and by the fee required under 37 CFR 1.17(i).

Conclusion

Any inquiry concerning this communication from the examiner should be addressed to Venkataraman Balasubramanian (Bala) whose telephone number is (571) 272-0662. The examiner can normally be reached on Monday through Thursday from 8.00 AM to 6.00 PM. The Supervisory Patent Examiner (SPE) of the art unit 1624 is Mukund Shah whose telephone number is (571) 272-0674. If Applicants are unable to reach Mukund Shah within 24-hour period, they may contact James O. Wilson, Acting-SPE of art unit 1624 at 571-272-0661.

The fax phone number for the organization where this application or proceeding is assigned (703) 872-9306. Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-1600.

Venkataraman Balasubramanian
Venkataraman Balasubramanian

9/30/2004